

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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| WALTER ERIC HOWARD, SR., ¹ | § | |
| | § | No. 712, 2010 |
| Respondent Below- | § | |
| Appellant, | § | Court Below: Family Court |
| | § | of the State of Delaware in and |
| v. | § | for Sussex County |
| | § | |
| HOLLY JENNIFER HOWARD | § | File No. CS09–03179 |
| | § | Case No. 09–34244 |
| Petitioner Below- | § | |
| Appellee. | § | |

Submitted: March 17, 2011

Decided: May 3, 2011

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 3rd day of May 2011, it appears to the Court that:

(1) Respondent-Below/Appellant, Walter Eric Howard, Sr. (“Husband”), appeals from a Family Court order, which divided the marital estate of Husband and Petitioner-Below/Appellee, Holly Jennifer Howard (“Wife”). Husband contends that “[t]he decision of the Family Court in dividing the assets of the parties equally without regard to all relevant statutory factors is not supported by the law, the facts nor the record, and is not the product of a logical and deductive process.” We find no merit to Husband’s appeal and affirm.

¹ The Court *sua sponte* assigned pseudonyms to the parties by Order dated November 15, 2010. Supr. Ct. R. 7(d).

(2) Wife filed for and obtained a divorce from Husband after approximately thirty years of marriage. The Family Court retained ancillary jurisdiction over the matter to divide the marital estate. Husband and Wife agreed on the division of certain marital assets, but asked the Family Court to divide the equity in the marital residence and the parties' retirement accounts. The parties agreed that the equity in the marital residence amounted to \$7,654. Husband had accumulated \$70,400 in his retirement account. Wife had accumulated \$2,739.66 in her retirement account. Wife asked the Family Court for an equitable division of those assets. Husband asked the Family Court for a 70-30 division of the equity in the marital residence in his favor. Husband also asked the Family Court to make no adjustment to the parties' retirement accounts.

(3) After a hearing on the matter, the Family Court issued an order. In that order, the Family Court evaluated the facts of this case in light of each of the marital property division factors of title 13, section 1513(a) of the Delaware Code. The Family Court concluded that an equal division of the disputed marital assets was appropriate. The Family Court explained, in part:

There is no basis for a disproportionate division in the equity in the marital home which would favor husband by better than 2:1 ratio. Likewise, based on the record in this case it would be inequitable to assign to each party, without attribution, their retirement accounts where [H]usband's retirement account is 25 times greater than [W]ife's.

This appeal followed.

(4) On appeal from a Family Court decision that divides marital property, we review the facts and the law, as well as the inferences and deductions that the Family Court has made.² We review conclusions of law *de novo*.³ If the law was correctly applied, we review the decision for an abuse of discretion.⁴ We will not disturb findings of fact unless they are clearly wrong.⁵

(5) Title 13, section 1513(a) of the Delaware Code provides:

In a proceeding for divorce or annulment, the Court shall, upon request of either party, equitably divide, distribute and assign the marital property between the parties without regard to marital misconduct, in such proportions as the Court deems just after considering all relevant factors including:

- (1) The length of the marriage;
- (2) Any prior marriage of the party;
- (3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;
- (4) Whether the property award is in lieu of or in addition to alimony;
- (5) The opportunity of each for future acquisitions of capital assets and income;
- (6) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker, husband, or wife;
- (7) The value of the property set apart to each party;
- (8) The economic circumstances of each party at the time the division of property is to become effective, including the

² *Olsen v. Olsen*, 971 A.2d 170, 174 (Del. 2009) (citing *Forrester v. Forrester*, 953 A.2d 175, 179 (Del. 2008)).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

desirability of awarding the family home or the right to live therein for reasonable periods to the party with whom any children of the marriage will live;

(9) Whether the property was acquired by gift, except those gifts excluded by paragraph (b)(1) of this section;

(10) The debts of the parties; and

(11) Tax consequences.

Husband argues that the Family Court “failed to express a rationale for [its] decision other than the fact that Husband earned presently greater dollars than did Wife.” Husband also argues that the Family Court “seemingly ignored the application of [section 1513(a)] to the particular facts of this case.”

(6) We have explained that the Family Court has broad discretion in dividing marital property.⁶ We also have explained that the Family Court is not required to place equal weight on each section 1513(a) factor.⁷ Rather, the Family Court is required to analyze and balance those factors in reaching a conclusion as to the division of property between the spouses.⁸ Here, the Family Court enumerated each section 1513(a) factor and recounted the evidence that it deemed relevant.⁹ The Family Court balanced those factors and that evidence and concluded that an equal division of the equity in the marital residence and the parties’ retirement accounts was appropriate. The Family Court’s determination

⁶ *Olsen*, 971 A.2d at 178 (Del. 2009) (citing *Gately v. Gately*, 832 A.2d 1251 (Del. 2003)).

⁷ *Id.* (citing *Whitesel v. Whitesel*, 651 A.2d 788, 1994 WL 590539, at *5 (Del. 1994) (TABLE)).

⁸ *Id.*

⁹ The Family Court, among other things, recognized that the parties had been married for over thirty years; identified each party’s level of income and vocational skills; and found that Wife was a homemaker for a time and that Husband was the “primary breadwinner.”

was the product of an orderly and logical deductive process. Accordingly, Husband has not shown that the Family Court abused its discretion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **AFFIRMED**.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice